HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.7891 of 2007

Dated:17.04.2007

Between:

A.Yadagiri Reddy.

…Petitioner

and

Revenue Divisional Officer, and others.

…Respondents

HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.7891 of 2007

ORDER:

The petitioner is aggrieved by the proceedings of the first respondent in Case No.B/ROR/4472/2006, dated 24.01.2007, whereunder the order of the second respondent, dated 14.11.2006 was set aside and the matter was remitted to the latter to dispose of the case with reference to physical possession over the land.

The brief fact of the matter is as follows. The third respondent herein filed an application under Section 5-A of the Andhra Pradesh Rights in Land and Pattadar Pass Books Act, 1971, seeking regularisation of a simple sale deed, dated 17.07.1980, by pattadar of the land in survey No.87 admeasuring Ac.11.20 guntas. The second respondent conducted enquiry, during which, the third respondent and five others (sons of Narayan Reddy) filed objection petition alleging that they purchased the land from pattadar Avancha Yadagiri Reddy, son of Narsimha Reddy. At that stage, the petitioner herein submitted a written statement on 26.10.2006 alleging that he did not sell the land to the third respondent. However, having regard to the orders of injunction in O.S.No.31 of 1978 filed along with the petition of the third respondent, the second respondent came to the conclusion that the dispute is of civil nature and the third respondent was advised to approach the civil Court. Against the said order of the Mandal Revenue Officer/Tahasildar, dated 14.11.2006, the third respondent preferred an appeal under Section 5-B of the Act[1]. In the said appeal, Avancha Narasimha Reddy, father of the petitioner and Avancha Janga Reddy were shown as respondents. By impugned

order, the first respondent remitted the matter to the Mandal Revenue Officer.

Learned counsel for the petitioner submits that after the death of Narasimha Reddy and Janga Reddy, the petitioner and others obtained necessary changes in the record of rights as legal representatives, but the first respondent passed orders against dead persons without impleading the legal heirs of respondents therein. He has also placed reliance on the death certificate, dated 02.04.2007, issued by the Village Revenue Officer, in proof of the contention that Narasimha Reddy died on 31.07.1981 and Janga Reddy died on 08.01.1995. Learned Assistant Government Pleader for Revenue (General-T) opposed the writ petition. He contends that when the matter is remitted to the Mandal Revenue Officer, nothing prevents the petitioner from approaching the officer and raising all objections.

It is not clear in the impugned order whether the factum of death of Narsimha Reddy and Janga Reddy was brought to the notice of the first respondent or not. It appears, the appellate authority proceeded on the premise that both the respondents therein were alive. Now that the petitioner contends that they were no more when the matter was heard by the Revenue Divisional Officer, in all probability, the Revenue Divisional Officer could not have passed an order against dead persons. This Court, however, hastens to add that by reason of the remand to the second respondent, the petitioner cannot be said to have suffered any prejudice. Indeed, he can always appear before the Mandal Revenue Officer and raise all objections. Liberty is given to the petitioner to file an application before the Tahasildar by way of objections, which shall be taken into consideration. Needless to mention that the Tahasildar, second respondent herein, shall afford an opportunity of being heard to the petitioner while deciding the matter, which is remanded by the first respondent. This observation would safeguard the interest of the petitioner.

The Writ Petition, with the above observations, is accordingly disposed of. No costs.

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(V.V.S.RAO, J)

17.04.2007

Note:Furnish C.C. in one week.

(B/o)

GJ

[1] Revenue Divisional Officer proceeds as if it is an appeal under Section 5(5) of the Act, which is not correct.